

REMARKS/ARGUMENTS

The rejection of Independent Claim 1 and Dependent Claims 2 to 6, 11 and 16 as being obvious and unpatentable based upon the Chan 'D018 patent, in view of the Wolf 'D011 patent and in further view of the Gurevich '971 patent under 35 U.S.C. §103(a) is respectfully traversed. It is respectfully submitted that these are improper rejections under the case of Graham v. John Deere because the Examiner is improperly using hindsight in an attempt to reconstruct the present invention based upon the aforementioned **three (3)** prior art patents.

The Chan 'D018 design patent discloses a jewelry setting having four pie-shaped gemstones for forming an oval-shaped gemstone. The four pie-shaped gemstones are held in a prong-type setting.

There is **no teaching** in the Chan design patent that its multi-stone jewelry setting has first and second crossbar members that form an X shaped configuration for its prong setting. As shown in Chan's patent drawings of Figures 1, 3 and 4, its rail members **do not have** any first and second crossbar members attached thereto. Further, there is **no teaching** in Chan of gemstones having **first and second retaining corners** and each of the first and second retaining corners forming a **corner retaining angle** with at least two of the gemstone's side walls. The present invention claims a triangular-shaped gemstone having three side walls, a first retaining corner, a second retaining corner and a third apex corner, as shown in Figures 3 and 10 of the patent drawings. Chan's patent drawings **do not show** this

structure or a retaining insert slot for each of its upright prongs. Chan's structure has no retaining insert slot and only has a prong having a holding edge, as shown in Figures 1, 3 and 4 of Chan's drawings.

The Wolf 'D011 design patent discloses a triangular-shaped gemstone having two 45° corners and a 90° corner. Wolf does not teach how to retain its triangular-shaped gemstone. Additionally, there is no teaching in Wolf of gemstones having first and second retaining corners and no teaching of the first and second retaining corners forming a corner retaining angle with at least two of the gemstone's side walls. The present invention claims a triangular-shaped gemstone having three side walls, a first retaining corner, a second retaining corner and a third apex corner, as shown in Figures 3 and 10 of the patent drawings, which is not taught by Wolf.

The Gurevich '971 patent discloses a multi-stone round setting for six substantially triangular-shaped gemstones or diamonds, each having three side walls. The multi-stone round setting includes a curved corner prong assembly having six curved prong members; six side rail members connected to the six prong members to form a substantially round-shaped setting; a central support member having six connection points and six support ledges; and six radially extending spoke members connected at their outer ends to the six prong members, respectively, and connected at their inner ends to the six connection points, respectively, to form six seating areas. Each of the six seating areas are used for receiving one of six gemstones.

There is no teaching in the Gurevich patent that its multi-stone jewelry setting has first and second crossbar members that form an X shaped configuration for its prong setting. As shown in Gurevich's patent drawings of Figures 1, 2 and 4, its rail members do not have any first and second crossbar members attached thereto. In fact, Gurevich's six crossbars do not form an X shaped configuration nor do they cross each other in its prong setting configuration. Further, there is no teaching in Gurevich of gemstones having first and second retaining corners and each of the first and second retaining corners forming a corner retaining angle with at least two of the gemstone's side walls. The present invention claims a triangular-shaped gemstone having three side walls, a first retaining corner, a second retaining corner and a third apex corner, as shown in Figures 3 and 10 of the patent drawings. Additionally, there is no teaching in Gurevich's prong setting that each of the six prongs have a retaining insert slot for engaging a portion of the first and second retaining corners of two adjacent gemstones, as claimed. Gurevich's patent drawings do not show this structure of a retaining insert slot for each of its upright prongs.

The Chan 'D018 patent, the Wolf 'D011 patent and the Gurevich '971 patent, even when combined, do not disclose or teach the following elements of Amended Independent Claim 1 for a multi-gemstone or diamond arrangement and a prong setting for receiving four substantially triangular-shaped gemstones or diamonds in the setting for forming a substantially rectangular-shaped gemstone or diamond arrangement:

a) the first and second crossbar members are for forming an X shaped configuration and each being connected at their respective first and second outer ends thereof to the corner rail members for forming four seating areas;

b) the four-triangular-shaped gemstones or diamonds each having three side walls and each having **first and second retaining corners** and a third apex corner, respectively, each of the **first and second retaining corners forming a corner retaining angle** with at least two of the side walls of the gemstone; and

c) each of the four prong members each having a retaining insert slot formed therein for receiving and engaging at least a portion of the first and second retaining corners of two adjacent gemstones or diamonds to keep the four gemstones or diamonds seated within each of the four seating areas of the prong setting.


None of the aforementioned prior art patents to Chan, Wolf and Gurevich teach the aforementioned elements of sections a), b) and c), even when they are combined. Please review EXHIBIT A attached.

Therefore, Independent Claim 1 is patentable and should be allowed.

CONCLUSION

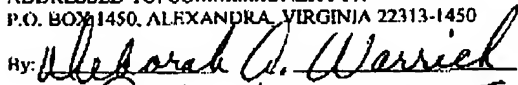
Therefore, the prior art references of Chan 'D018, Wolf 'D011 and Gurevich '971, even when combined, do not teach or disclose the claimed features of Amended Independent Claim 1, and the Claims which depend therefrom. For these reasons, it is respectfully submitted that applicant's Claims 1 through 20 should be allowed.

Respectfully submitted,


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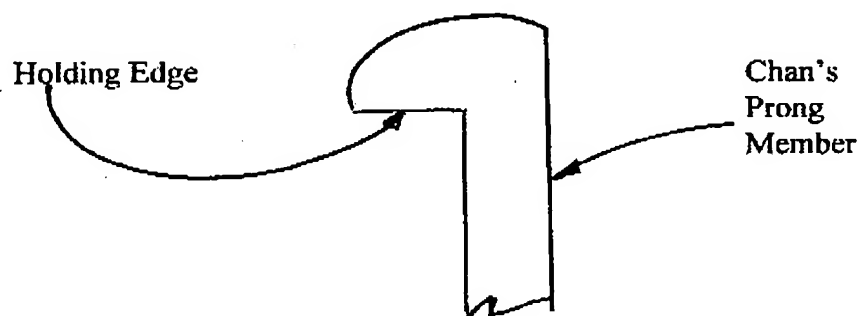
By: 
Date: September 7, 2005

GOLDSTAR v. the Chan, Gurevich and Wolf Prior Art Patents

1) None of these patents have first and second crossbar members forming an X-shaped configuration.

2) None of these patents have first and second retaining corners on each of the triangular-shaped gemstones.

3) None of these patents have prong members with a retaining insert slot formed therein for receiving and engaging at least a portion of said first and second retaining corners of two adjacent gemstones or diamonds to keep said four gemstones or diamonds seated within each of said four seating areas of said prong setting. Chan has no retaining insert slot, and only has a prong having a holding edge, as shown in the sketch below.

**EXHIBIT A**